



Ordinance: 21-17

Adopted: June 14, 2021

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Effective: July 14, 2021

**ENACTING SECTION 525.19 OF THE CITY'S CODIFIED ORDINANCES REGARDING UNLAWFUL DISCRIMINATORY PRACTICES.**

**WHEREAS**, Ohio law currently prohibits discriminatory practices in housing, employment, and public accommodations based on race, sex, color, religion, ancestry, national origin, age, disability, familial status, marital status, or military status; and

**WHEREAS**, the City of Columbus, the City of Bexley, City of Worthington, and City of Westerville have adopted ordinances to ban discrimination in housing, employment, and public accommodations based on race, sex, sexual orientation, gender identity, gender expression, color, religion, ancestry, national origin, age, disability, familial status, marital status, genetic information, military status, or pregnancy; and

**WHEREAS**, the City of Hilliard does not currently have an ordinance prohibiting discrimination in employment and public accommodations; and

**WHEREAS**, in an effort to codify anti-discrimination measures holistically, City Council desires to enact Section 525.19 of the City's Codified Ordinances regarding Unlawful Discriminatory Practices; and

**WHEREAS**, it is the desire of Council to eliminate discrimination in Hilliard based upon race, sex, sexual orientation, gender identity, gender expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, marital status, genetic information, military status, or pregnancy; and

**WHEREAS**, Council believes enacting Section 525.19 of the City's Codified Ordinances, as shown on Exhibit "A", attached hereto and incorporated herein, promotes the general health, safety, and welfare of the City and its residents.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Hilliard, Ohio:

**SECTION 1.** Council finds that enacting Section 525.19 of City's Codified Ordinances is in the City's best interest, as identified in Exhibit "A", **attached** hereto and incorporated herein. Section 525.19, as shown in Exhibit "A" is approved and shall be incorporated into the City's Codified Ordinances.

**SECTION 2.** This Ordinance shall be in full force and effect from and after the earliest time provided by law.

**ATTEST:**

**SIGNED:**

Diane C. Werbrich, MMC  
Clerk of Council

Pete Marsh  
President of Council

APPROVED AS TO FORM:

*9th day of June for*

**Philip K. Hartmann**  
**Director of Law**

✓ <b>Vote Record - Ordinance 21-17</b>						
			<b>Yes/Aye</b>	<b>No/Nay</b>	<b>Abstain</b>	<b>Absent</b>
<input checked="" type="checkbox"/> Adopted		Pete Marsh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Adopted as Amended		Les Carrier	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Passed		Tom Baker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Defeated		Kelly McGivern	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Tabled		Omar Tarazi	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Held Over		Andy Teater	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Referred		Cynthia Vermillion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Withdrawn						
<input type="checkbox"/> First Reading						
<input type="checkbox"/> Positive Recommendation						
<input type="checkbox"/> No Recommendation						

**CERTIFICATE OF THE CLERK**

I, Diane C. Werbrich, Clerk of Council for the City of Hilliard, Ohio, do hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance No. **21-17** passed by the Hilliard City Council on the 14th day of June 2021.

IN TESTIMONY WHEREOF, witness my hand and official seal this 14th day of June 2021.

Diane C. Werbrich, MMC

**SECTION 525.19 Discriminatory Practices, Civil Rights, Disclosure**

**(a) DEFINITIONS**

As used in this Section:

- (1) "Age" means at least forty (40) years old, except as otherwise provided in this Section.
- (2) "Aggrieved individual" means an individual who claims to have been injured by an unlawful discriminatory act or practice described in this Section.
- (3) "Burial lot" means any lot for the burial of deceased individuals within any public burial ground or cemetery, including, but not limited to, cemeteries owned and operated by companies or associations incorporated for cemetery purposes.
- (4) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.
- (5) "Complainant" means an aggrieved individual who, pursuant to the provisions of this Section, files with the Clerk of Council a written complaint alleging an unlawful discriminatory act, policy, or practice.
- (6) "Controlled substance" has the same meaning as in section 3719.01 of the Ohio Revised Code.
- (7) "Covered multifamily dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.
- (8) "Disability" means a physical or mental impairment that substantially limits one (1) or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment by a physician licensed in the United States of America.
- (9) "Discriminate", "Discrimination", or "Discriminatory" any act, policy, or practice that regardless of intent, has the effect of subjecting any person to differential treatment as a result of a protected characteristic, and includes segregated or separated or any difference in treatment.
- (10) "Employee" means an individual employed by any employer but does not include any individual employed in the domestic service of any person.
- (11) "Employer" means a person employing four or more persons within the states, and includes any person acting directly or indirectly in the interest of an employer, but does not include the United States or any State or political subdivision of a State, except for the City of Hilliard, its departments, boards, commissions, and authorities.
- (12) "Employment agency" means any persons regularly undertaking with or without compensation, to procure opportunities for employment or to procure, recruit, refer, or place employees.
- (13) "Familial status" means the makeup of the family. Family may include one or more of the following:
  - A. One or more individuals who are under eighteen (18) years of age and who are domiciled with a parent or guardian having legal custody of the individual or domiciled, with the written permission of the parent or guardian having legal custody, with a

designee of the parent or guardian.

- B. Any person who is pregnant or in the process of securing legal custody of any individual who is under eighteen (18) years of age.
  - C. "Family" includes a single individual.
- (14) "Gender identity or expression " means having or being perceived as having gender-related identity, appearance, expression, or behavior, whether or not that identity, appearance, expression, or behavior is different from that traditionally associated with the person's actual or perceived sex.
  - (15) "Hearing Officer" means the person appointed by Law Director. Such a hearing officer should have appropriate experience in dispute resolution, including but not limited to a Juris Doctor, Certified Mediator, or other similar qualification.
  - (16) "Housing accommodations" means any buildings or structure or portion thereof which is used or occupied or is intended, arranged, or designed to be used or occupied as a home residence or sleeping place of one (1) or more individuals, groups, or families, whether or not living independently of each other; and any vacant land offered for sale or lease. It also includes any housing accommodations held or offered for sale or rent by a real estate broker, salesperson, or agent, or by any other person pursuant to authorization of the owner, by the owner, or by such person's legal representative.
  - (17) "Labor organization" means any organization which exists for the purpose, in whole or in part, of collective bargaining or for other mutual aid or protection in relation to employment.
  - (18) "Law Director" means the City of Hilliard's Director of Law or a designee appointed by the City Manager.
  - (19) "Marital status" means a person's state of being single, married, separated, divorced, or widowed.
  - (20) "Military status" means a person's status in "Service in the uniformed services" as defined in Section 5923.05 of the Ohio Revised Code.
  - (21) "Person" means one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, and trustees in bankruptcy, receivers, and other organized groups of persons. It also includes, but is not limited to, any owner, lesser, assignor, builder, manager, broker, salesperson, agent, employee, lending institution, and the City of Hilliard and all political subdivisions, authorities, agencies, boards, and commissions thereof.
  - (22) "Physical or mental impairment" includes any of the following:
    - A. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one (1) or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin; and endocrine.
    - B. Any mental or psychological disorder, including, but not limited to, orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, sickle cell, human immunodeficiency virus infection, intellectual disabilities, emotional illness, drug addiction, and alcoholism.
    - C. "Physical or mental impairment" does not include any of the following:

1. Pedophilia, exhibitionism, voyeurism, or other sexual behavior disorders;
  2. Compulsive gambling, kleptomania, or pyromania; or
  3. Psychoactive substance use disorders resulting from current illegal use of controlled substance.
- (23) "Place of public accommodation" means any inn, restaurant, eating house, barbershop, public conveyance by air, land, or water, theater, store, or other place for the sale of merchandise or any other place of public accommodation or amusement of which the accommodations, advantages, facilities, or privileges are available to the public.
- (24) "Protected class" means a classification of individuals based on one or more of the following characteristics: race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status, marital status, military status.
- (25) "Public use areas" means interior or exterior rooms or spaces of a privately owned building that are made available to the general public.
- (26) "Religious organization" means a not for profit church or integrated auxiliary of a church, as those terms are used by the United States Internal Revenue Service and includes any school that incorporates substantial religious teachings or religious practices of that church in that school. Religious organization does not include any hospital or medical facility that offers medical services to the general public.
- (27) "Respondent" means the person against whom a complaint is filed, pursuant to the provision of this Chapter.
- (28) "Restrictive covenant" means any specification in a deed, land contract, or lease limiting the use of any housing accommodation because of a person being in a Protected Class or any limitation based upon affiliation with or approval by any person, directly or indirectly, employing Protected Class as a condition of affiliation or approval.
- (29) "Senior citizen" means an individual at least sixty years old.
- (30) "Service in the uniformed services" means the performance of duty, on a voluntary or involuntary basis, in a uniformed service, under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time national guard duty, and performance of duty or training by a member of the Ohio organized militia pursuant to Chapter 5923 of the Ohio Revised Code. "Service in the uniformed services" includes also the period of time for which a person is absent from a position of public or private employment for the purpose of an examination to determine the fitness of the person to perform any duty described in this division.
- (31) "Service Provider" means a person or company that provides service in an individual's house or a service that a person accesses solely via the internet.
- (32) "Sex" means male or female, both, or neither. The terms "because of sex" and "on the basis of sex" include pregnancy, any illness arising out of and occurring during the course of pregnancy, childbirth, or related medical conditions...
- (33) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, or bisexuality.

(34) "Uniformed services" means the Armed Forces, the Ohio organized militia when engaged in active duty for training, inactive duty training, or full-time national guard duty, the commissioned corps of the public health service, and any other category of persons designated by the president of the United States in time of war or emergency.

(35) "Unlawful discriminatory practice" means any act prohibited by Section 525.19 of the Hilliard Codified Ordinances.

(b) **UNLAWFUL DISCRIMINATORY HOUSING PRACTICES.**

(1) Nothing in this section shall bar any religious or denominational institution or organization, or any nonprofit charitable or educational organization that is operated, supervised, or controlled by or in connection with a religious organization, from limiting the sale, rental, or occupancy of housing accommodations that it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference in the sale, rental, or occupancy of such housing accommodations to persons of the same religion, unless membership in the religion is restricted on account of race, color, or national origin.

(2) It shall be an unlawful discriminatory practice for any person to:

A. Refuse to sell, transfer, assign, rent, lease, sublease, negotiate, finance, or otherwise deny or withhold housing accommodations from any person being in a Protected Class of any prospective owner, occupant, or user of such housing accommodations;

B. Refuse to sell, transfer, assign, rent, lease, sublease, negotiate, finance, or otherwise deny or withhold housing accommodations because of an individual being in a Protected Class;

C. Refuse to lend money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations or otherwise withhold financing of housing accommodations from any person in a Protected Class, because of that person's status in a Protected Class, of any present or prospective owner, occupant, or user of such housing accommodations, provided such person, whether an individual, corporation, or association of any type, lends money as one of the principal aspects of their business or incidental to their principal business, unless it involves a transactions with the person's relative or friend;

D. Discriminate against any person in the terms or conditions of selling, transferring, assigning, renting, leasing or subleasing any housing accommodations, or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodations including the sale of fire, extended coverage, or homeowners insurance, because the individual is in a Protected Class, or because of the composition, in terms of Protected Class, of the neighborhood in which the housing accommodations are located;

E. Refuse to consider, without prejudice, the combined income of both lawfully married persons for the purpose of extending mortgage credit to a married couple or either member of a married couple.

F. Print, publish, or circulate any statement or advertisement relating to the sale, transfer, assignment, rental, lease, sublease, or acquisition of any housing accommodations or the loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations which indicates any preference, limitation, specification, or discrimination based upon the person being in a Protected Class of any present or prospective owner, occupant, or user of such housing accommodations;

- G. Make any inquiry, elicit any information, make or keep any record, or use any form of application containing questions or entries concerning an individual's Protected Class in connection with the sale or lease of any housing accommodations or the loan of any money, whether or not secured by a mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations. Any person may make inquiries, and make and keep records, concerning an individual's Protected class status for the purpose of monitoring compliance with this Section;
- H. Include in any deed, land contract, or lease of accommodations any covenant, honor or exercise, or attempt to honor or exercise, any covenant, that would prohibit, restrict, or limit the sale, transfer, assignment, rental lease, sublease, or finance of housing accommodations to or for any person being in a Protected Class of any prospective owner, occupant, or user of such housing accommodations provided that prior inclusion of a restrictive covenant in the chain of title shall not be deemed a violation of this provision;
- I. Induce or solicit, or attempt to induce or solicit, any housing accommodations listing, sale, or transaction by representing that a change has occurred or may occur in the block, neighborhood, or area in which the property is located, which change is related to the presence or anticipated presence of persons of a Protected Class.
- J. Induce or solicit or attempt to induce or solicit, any housing accommodations listing, sale, or transaction by representing that the presence or anticipated presence of persons being in a Protected Class in the area will or may have results such as the following:
  - 1. The lowering of property values;
  - 2. An increase in criminal or antisocial behavior in the area; or
  - 3. A decline in the quality of schools serving the area.
- K. Discourage or attempt to discourage the purchase by prospective purchasers of any housing accommodations by representing that any block, neighborhood, or area has or might undergo a change with respect to the Protected Class status of the residents;
- L. Deny any person access to or membership or participation in any multiple listing service, real estate, brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing accommodations, or to discriminate against them in the terms of conditions of such access, membership, or participation, on account of them being in a Protected Class;
- M. Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section;
- N. Whether or not acting under color of law, by force or threat of force willfully injure, intimidate or interfere with, or attempt to injure, intimidate, or interfere with:
  - 1. Any person in a Protected Class because that person is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling, purchasing, renting, financing, occupying or contracting housing accommodations;

2. Any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from:
    - a. Participating, without discrimination on account of being in a Protected Class in any of the activities, services, organizations, or facilities described in division (N)(1) of this section.
    - b. Affording another person or class of persons opportunity or protection so to participate.
  3. Discouraging any person from lawfully aiding or encouraging other persons to participate, without discrimination on account of being in a Protected Class in any of the activities, services, organizations, or facilities described in division (15)(A) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.
- O. Refuse to sell, transfer, assign, rent or lease, sublease, finance or otherwise deny or withhold a burial lot from any person because them being in a Protected Class; or
- P. For any person to discriminate in any manner against any other person because that person has opposed any unlawful practice defined in Section 525.19 of the Hilliard Codified Ordinances, or because that person has made a charge, testified, assisted, or participated in any manner, in any investigation, proceeding, or hearing under the provisions of Section 525.19(e) of the Hilliard Codified Ordinances;
- Q. Except as otherwise provided in this Section, make an inquiry of an applicant to determine the Protected Class status of the applicant for the sale or rental of housing accommodations, an individual residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with such individuals. The following inquiries may be made of all applicants for the sale or rental of housing accommodations, regardless of the applicant's Protected Class:
1. An inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
  2. An inquiry to determine whether an applicant is qualified for housing accommodations available only to individuals with disabilities or individuals with a particular type of disability;
  3. An inquiry to determine whether an applicant is qualified for a priority available to individuals with disabilities or individuals with a particular type of disability;
  4. An inquiry to determine whether an applicant currently uses a controlled substance in violation of section 2925.11 of the Ohio Revised Code or a substantively comparable municipal ordinance;
  5. An inquiry to determine whether an applicant at any time has been convicted of or pleaded guilty to any offense, an element of which is the illegal sale, offer to sell, cultivation, manufacture, other production, shipment, transportation, delivery, or other distribution of a controlled substance.
- R. Refuse to permit, at the expense of an individual with a disability, reasonable modifications of existing housing accommodations that are occupied or to be occupied by the individual with a disability, if the modifications may be necessary to afford the

individual with a disability full enjoyment of the housing accommodations. This division does not preclude a landlord of housing accommodations that are rented or to be rented to a disabled tenant from conditioning permission for a proposed modification upon the disabled tenant's doing one or more of the following:

1. Providing a reasonable description of the proposed modification and reasonable assurances that the proposed modification will be made in a workerlike manner and that any required building permits will be obtained prior to the commencement of the proposed modification;
  2. Agreeing to restore at the end of the tenancy the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if it is reasonable for the landlord to condition permission for the proposed modification upon the agreement;
  3. Paying into an interest bearing escrow account that is in the landlord's name, over a reasonable period of time, a reasonable amount of money not to exceed the projected costs at the end of the tenancy for the restoration of the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if the landlord finds the account reasonably necessary to ensure the availability of funds for the restoration work. The interest earned in connection with an escrow account described in this division shall accrue to the benefit of the disabled tenant who makes payments into the account.
- S. Condition permission for a proposed modification of a dwelling unit upon a disabled tenant's payment of a security deposit that exceeds the customarily required security deposit of all tenants of the particular housing accommodations;
- T. Refuse to make reasonable accommodations in rules, policies, practices, or services when necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas;
- U. Fail to comply with the standards and rules adopted under division (A) of section 3781.111 of the Ohio Revised Code;
- V. Discriminate against any individual in the selling, brokering, or appraising of real property because of the individual being in a Protected Class; or
- W. Fail to design and construct covered multifamily dwellings for first occupancy in accordance with the following conditions:
1. The dwellings shall have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.
  2. With respect to dwellings that have a building entrance on an accessible route, all of the following apply:
    - a. The public use areas and common use areas of the dwellings shall be readily accessible to and usable by an individual with a disability.
    - b. All the doors designed to allow passage into and within all premises shall be sufficiently wide to allow passage by an individual with a disability who is in a wheelchair.

- c. All premises within covered multifamily dwelling units shall contain an accessible route into and through the dwelling; all light switches, electrical outlets, thermostats, and other environmental controls within such units shall be in accessible locations; the bathroom walls within such units shall contain reinforcements to allow later installation of grab bars; and the kitchens and bathrooms within such units shall be designed and constructed in a manner that enables an individual in a wheelchair to maneuver about such rooms.
- (3) Nothing in this section shall be construed to require any person selling or renting property to modify the property in any way or to exercise a higher degree of care for an individual with a disability, to relieve any individual with a disability of any obligation generally imposed on all individuals regardless of disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement, or contract
  - (4) Nothing in this section limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations. Nothing in this section prohibits the owners or managers of housing accommodations from implementing reasonable occupancy standards based on the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit, provided that the standards are not implemented to circumvent the purposes of this Section and are formulated, implemented, and interpreted in a manner consistent with this Section and any applicable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations.
  - (5) Nothing in this Section pertaining to unlawful discriminatory housing practice shall be construed to apply to "housing for older persons" as defined and provided in section 42 U.S.C. 3607 (b)(2), as amended.

**(c) UNLAWFUL DISCRIMINATORY EMPLOYMENT PRACTICES.**

- (1) This Section does not apply to a religious corporation, association, educational institution, or society with respect to the employment of an individual of a particular religion to perform work connected with the carrying on by that religious corporation, association, educational institution, or society of its activities.
- (2) It shall be an unlawful discriminatory practice, except where based upon applicable national security regulations established by the United States:
  - A. For any employer, because of an individual being in a Protected Class to refuse to hire that person or otherwise to discriminate against that person with respect to hiring, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment;
  - B. For any employer, employment agency, or labor organization to establish, announce or follow a policy of denying or limiting, the employment or membership opportunities of any person or group of persons because of an individual being in a Protected Class;
  - C. For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any person of a Protected Class in admission to employment in any program established to provide apprentice training;
  - D. For any employer, employment agency, or labor organization to publish or circulate, or to cause to be published or circulated, any notice or advertisement relating to employment or membership which indicates any preference, limitation, specifications,

or discrimination based upon Protected Class;

- E. For any person advertising for employment opportunities to publish or to cause to be published any advertisement which specifies or in any manner indicates that person's race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status, marital status, military status, or that of any prospective employer;
- F. For any employment agency to refuse or fail to accept, register, classify properly, or refer for employment or otherwise to discriminate against any person because of their Protected Class status;
- G. For any employer, employment agency, or labor organization to utilize in the recruitment or hiring of persons, any employment agency, placement service, labor organization, training school or center, or any other employee-referring source, proven to discriminate against persons because of an individual's Protected Class;
- H. For any labor organization to discriminate against any person or limit that person's employment opportunities, or otherwise adversely affect that person's status as an employee, or that person's wages, hours, or employment conditions, because of their being in a Protected Class;
- I. For an employment agency, to comply with, accommodate, or otherwise assist with locating an employee related to a request from an employer for referral of applicants for employment if the request indicates, directly or indirectly, that the employer fails, or may fail, to comply with Section 525.19 of the Hilliard Codified Ordinances;
- J. For any labor organization to limit or classify its membership of any Protected Class;
- K. Except where based on a bona fide occupational qualification certified in advance by an agency of the state or Federal government or a political subdivision, for any employer, employment agency, personnel placement service, or labor organization, prior to employment or admission to membership, to do any of the following:
  - 1. Elicit or attempt to elicit any information concerning the Protected Class status of an applicant for employment or membership;
  - 2. Use any form of application for employment or personnel or membership seeking to elicit information regarding an individual's Protected Class status. However, an employer, employment agency, or labor organization holding a contract with the government of the United States may be required to follow federal law as a condition of the contract.
- L. For any employer, employment agency or labor organization to discriminate against any person because that person has opposed any practice forbidden by Section 525.19, of the Hilliard Codified Ordinances, or because that person has made a complaint or assisted in any manner in any investigation or proceeding under Section 525.19(e) of the Hilliard Codified Ordinances.
- M. For any employer to discriminate against an individual with a disability in any of the following ways:
  - 1. By limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee.

2. By denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such employer to make reasonable accommodation to the physical or mental impairments of the employee or applicant.
  3. By failing to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual who is an applicant or employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer.
  4. By denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, on the basis of such disabled individual's use of a service animal, provided nothing in this Section shall be construed to require any employer, as a reasonable accommodation, to provide a service animal to a disabled individual.
- N. For any employer to discriminate against an employee or applicant affected by pregnancy, childbirth, or related medical conditions for any employment-related purposes, including receipt of benefits under fringe benefit programs, or to fail to treat a an employee or applicant so affected the same as other individuals not so affected but similar in their ability or inability to work.
- O. It shall be an unlawful employment practice for a covered entity to:
1. Not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a job applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;
  2. Require a job applicant or employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation that such applicant or employee chooses not to accept, if such accommodation is unnecessary to enable the applicant or employee to perform her job;
  3. Deny employment opportunities to a job applicant or employee, if such denial is based on the need of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of an employee or applicant;
  4. Require an employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of an employee; or
  5. Take adverse action in terms, conditions, or privileges of employment against an employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee.
- P. For any employer to discriminate against an employee or potential employee on the basis of age in offering any job opening or in the discharge of an employee without just cause who is physically able to perform the duties and otherwise meets the established requirements of the job and laws pertaining to the relationship between employer and employee.
- (3) With regard to age, it shall not be an unlawful discriminatory practice and it shall not constitute a violation of this Section for any employer, employment agency, joint labor-management committee

controlling apprenticeship training programs, or labor organization to do any of the following:

- A. Establish bona fide employment qualifications reasonably related to the particular business or occupation that may include standards for skill, aptitude, physical capability, intelligence, education, maturation, and experience;
- B. Observe the terms of a bona fide seniority system or any bona fide employee benefit plan, including, but not limited to, a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this section. However, no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual, because of the individual's age except as provided for in the "Age Discrimination in Employment Act Amendment of 1978", 29 U.S.C.A. 623, as amended by the "Age Discrimination in Employment Act Amendments of 1986", 29 U.S.C.A. 623, as amended, or as later amended.
- C. Retire an employee who has attained sixty-five years of age who, for the two-year period immediately before retirement, was employed in a bona fide executive or a high policymaking position, if the employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of those plans of the employer of the employee, which equals, in the aggregate, at least forty-four thousand dollars, in accordance with the conditions of the "Age Discrimination in Employment Act Amendment of 1978", 29 U.S.C.A. 631, as amended by the "Age Discrimination in Employment Act Amendments of 1986", 29 U.S.C.A. 631, as amended, or as later amended;
- D. Observe the terms of any bona fide apprenticeship program if the program is registered with the Ohio apprenticeship council pursuant to sections 4139.01 to 4139.06 of the Ohio Revised Code and is approved by the federal committee on apprenticeship of the United States Department of Labor.

(4) Nothing in this Section shall be construed to prohibit any of the following:

- A. The designation of uniform age the attainment of which is necessary for public employees to receive pension or other retirement benefits pursuant to Chapters 145., 742., 3307., 3309., or 5505. of the Ohio Revised Code;
- B. The establishment of maximum age requirements for original appointment to a police department or fire department pursuant to sections 124.41 and 124.42 of the Ohio Revised Code;
- C. Any establishment of a maximum age not in conflict with federal law that may be established by a municipal charter, municipal ordinance, or resolution of a board of township trustees for original appointment as a police officer or firefighter;
- D. Any establishment of a mandatory retirement provision not in conflict with federal law, a municipal charter, municipal ordinance, or resolution of a board of township trustees pertaining to police officers and firefighters.

(5) Nothing in this section shall be construed to require an individual with a disability to be employed or trained under circumstances that would significantly increase the occupational hazards affecting either the individual with a disability, other employees, the general public, or the facilities in which the work is to be performed, or to require the employment or training of an individual with a disability in a job that requires the individual with a disability routinely to undertake any task, the performance of which is substantially and inherently impaired by the individual's disability.

- (6) Nothing in this Section shall prohibit an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee from doing any of the following:
- A. Adopting or administering reasonable policies or procedures, including, but not limited to, testing for the illegal use of any controlled substance, that are designed to ensure that an individual no longer is engaging in the illegal use of any controlled substance. For purposes of this Section, a test to determine the illegal use of any controlled substance does not include a medical examination;
  - B. Prohibiting the illegal use of controlled substances and the use of alcohol at the workplace by employees;
  - C. Requiring that employees not be under the influence of alcohol or not be engaged in the illegal use of any controlled substance at the workplace;
  - D. Requiring that employees behave in conformance with the requirements established under "The Drug-Free Workplace Act of 1988", 41 U.S.C.A. 701, as amended;
  - E. Holding an employee who engages in the illegal use of any controlled substance or who is an alcoholic to the same qualification standards for employment or job performance, and the same behavior, to which the employer, employment agency, personnel placement service, labor organization, or joint labor-management committee holds other employees, even if any unsatisfactory performance or behavior is related to an employee's illegal use of a controlled substance or alcoholism;
  - F. Exercising other authority recognized in the "Americans with Disabilities Act of 1990", 42 U.S.C.A. 12101, as amended. including, but not limited to, requiring employees to comply with any applicable federal standards.
- (7) For any person, whether or not an employer, employment agency or labor organization, to aid, incite, compel, coerce, or participate in the doing of any act declared to be unlawful discriminatory practice by Section 525.19, of the Hilliard Codified Ordinances, or to obstruct or prevent any person from enforcing or complying with the provisions of this Section, or to attempt directly or indirectly to commit any act declared by this Section, to be an unlawful discriminatory practice by Section 525.19, of the Hilliard Codified Ordinances, or to obstruct or prevent any person from enforcing or complying with the provisions of this Section, or to attempt directly or indirectly to commit any act declared by this Section, to be an unlawful discriminatory practice.

**(d) UNLAWFUL DISCRIMINATORY PRACTICES IN PROVIDING SERVICES AND PUBLIC ACCOMMODATIONS.**

- (1) Nothing in this section shall bar any religious or denominational institution or organization, or any charitable or educational organization, which is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to persons of the same religion or denomination, or from making such selection as is calculated by such organization to promote the religious principles or the aims or purposes for which it is established or maintained with the exception for those goods, services, facilities, and accommodations that are supported by public funds.
- (2) It shall be an unlawful discriminatory practice:
- A. For any service provider, proprietor, keeper, owner, operator, manager, or employee of a place of public accommodation to deny to any person except for reasons applicable alike to all individuals regardless of them being in a Protected

Class the full enjoyment of the service, accommodations, advantages, facilities, or privileges of the place of public accommodation;

- B. No service provider, proprietor, keeper, owner, operator, manager, or employee of a place of public accommodation shall deny to any individual with a disability the full enjoyment of the accommodations, advantages, facilities, or privileges of the place of public accommodation on the basis of such individual's use of a service animal, provided:
  - 1. The disabled individual using the service animal may be prohibited from having the service animal present in the place of public accommodation if:
    - a. The animal is out of control, as provided by 28 CFR 35.136(d), and the animal's handler does not take effective action to control it; or
    - b. The animal is not housebroken.
  - 2. If it is not readily apparent what service a service animal provides, service provider, proprietor, keeper, owner, operator, manager, or employee of a place of public accommodation may make the following two inquiries:
    - a. Whether the service animal is required because of the disabled individual's disability, provided an inquiry may not be made as to:
      - i. The disabled individual's disability; or
      - ii. The disabled individual's medical condition or requirements.
    - b. What work or tasks has the dog been trained to perform, provided an inquiry may not be made as to any special identification or training documentation for the dog, and the dog shall not be required to demonstrate its training or abilities.
  - 3. The Service provider, proprietor, keeper, owner, operator, manager, or employee of a place of public accommodation are not required to provide care or food for the service animal.
- C. For any service provider, proprietor, keeper, owner, operator, manager, or employee of a place of public accommodation to publish, circulate, issue, display, post or mail, either directly or indirectly, any printed or written communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities, goods, products, services, and/or privileges of any such place shall be refused, withheld, or denied to any person on account of said person being in a Protected Class or that such person is unwelcome, objectionable, or not acceptable, desired, or solicited; or
- D. For any person, whether or not included in divisions (a) and (b) in this section, to aid, incite, compel, coerce, or participate in the doing of any act declared to be an unlawful discriminatory practice under this section.
- E. Unless otherwise prohibited by law, nothing in this section shall be construed to prohibit any person from offering senior citizen price discounts or other privileges exclusively for the benefit of senior citizens.
- F. Nothing in this section shall be construed to require the modification of existing facilities or the construction of new or additional facilities.

**(e) COMPLAINT AND ENFORCEMENT PROCEDURE.**

(1) All Complaints filed with the Clerk of Council pursuant to this division shall adhere to the flowchart, as shown on Attachment A to this Section. A failure to adhere to the flowchart, as provided in this Attachment, shall not invalidate any proceedings or actions taken by the Clerk of Council or Law Director.

(2) Complaints

- A. Any person may file a charge with the Clerk of Council alleging that another person has engaged or is engaging in an unlawful discriminatory practice as defined in Section 525.19 of the Hilliard City Codes. The charge shall be in writing and under oath and shall be filed with the Clerk of Council within one hundred eighty (180) days after the alleged unlawful discriminatory practice is committed. The Clerk of Council shall forward a copy of the charge to the Respondent and to the Law Director.
- B. If the charge of discrimination alleges a violation based on a Protected Class and/or any other class or characteristic protected under state or federal law, then the Law Director shall instruct the Complainant to file a charge of discrimination with the Ohio Civil Rights Commission (OCRC)/Equal Employment Opportunity Commission (EEOC). The Law Director shall provide the Complainant with information about this requirement and contact information for the OCRC/EEOC within ten (10) days from the date the charge was filed with the Clerk of Council. The initial filing of a charge of discrimination with the Clerk of Council will not extend the deadlines for filing a charge of discrimination with the OCRC/EEOC.

In the event of a deferral by the OCRC/EEOC, any Complainant who timely filed a charge of discrimination under this Section may request the Law Director to review the final determination made by the OCRC/EEOC on charges of discrimination containing the same allegations as in the original charge filed under this Section. Such request for review must be made within thirty (30) days of the OCRC/EEOC's final disposition of the charge. The Law Director shall only have authority to review dismissals of complaints OCRC/EEOC based on insufficient time or resources to fully investigate or a lack of jurisdiction by the OCRC/EEOC. The Law Director shall not have authority to review dismissals based on lack of probable cause.

If the Law Director determines that the OCRC/EEOC dismissed the complaint based on insufficient time or resources to fully investigate or a lack of jurisdiction, the Law Director shall process the charge pursuant to Sections 525.19(1)(C)-(F).

Charges of discrimination alleging a violation of this Section based a Protected Class, and/or any other class or characteristic protected under state or federal law shall be subject to deferral to the OCRC as set forth in this Section. If the OCRC/EEOC dismisses a charge of discrimination timely filed under this Section and based on sexual orientation, gender identity or expression, marital status, or familial status for lack of jurisdiction, the Complainant may, within thirty (30) days of such dismissal request the charge to proceed under this Section. Upon request, the Law Director shall handle the case in accordance with Sections 525.19(1)(C)-(F).

The Law Director shall have no authority to review any charge under this Section if Complainant or Respondent has appealed the OCRC /EEOC decision to court or otherwise challenged the alleged unlawful discriminatory practices in state or federal court.

(3) Law Director: Authority, Actions, and Enforcement

- A. For cases processed by the City without intervention of the OCRC/EEOC, the Law Director shall notify the Complainant and Respondent of the option for voluntary mediation. If both parties agree to voluntary mediation, a mediator designated by the Law Director shall endeavor to eliminate such alleged unlawful discriminatory practices by methods of mediation. The mediation shall be conducted in accordance with Chapter 2710 of the Ohio Revised Code. All mediation communications shall be privileged pursuant to Section 2710.03 of the Ohio Revised Code. Nothing said or done during mediation shall be made public unless the parties agree thereto in writing.
- B. Preliminary Investigation: If the Law Director determines that methods of mediation have failed to affect the elimination of such alleged unlawful discriminatory practice or that the state or federal government has not exercised jurisdiction and/or provided mechanism for redress, the Law Director shall conduct a preliminary investigation. If the Law Director determines after such investigation, that it is not probable that unlawful discriminatory practices have been or are being engaged in, the Law Director shall notify the Complainant and Respondent in writing that it has been so determined, and that no other action will be initiated under this Section.
- C. Determination Hearing: If the Law Director determines that methods of mediation have failed to effect the elimination of such alleged unlawful discriminatory practice and that the state or federal government has not exercised jurisdiction and/or provided mechanism for redress, and if the Law Director determines after preliminary investigation that it is probable that unlawful discriminatory practices have been or are being engaged in, then the Law Director shall serve upon the Respondent and Complainant a notice of a determination hearing before the Hearing Officer. The notice shall inform the Respondent and Complainant of a hearing at a time and place therein fixed to be held not less than thirty (30) days after the service of such notice and stating the charges specified in the original charge upon which a probable cause determination has been made against the Respondent. If circumstances warrant, the Law Director may serve such notice at any time during the complaint procedure. The Hearing Officer will consider any reasonable requests for extension of the hearing date and reserves the right to continue the hearing, for good cause shown, for a period of up to thirty (30) additional days.

Any such charge may be amended by the Law Director or Complainant at any time prior to or during the hearing based thereon. The Respondent shall have the right to file an answer or to amend an answer to the original or amended charge, and to appear to such hearing in person, or by attorney, present evidence or otherwise to examine and cross-examine witnesses.

The Complainant shall be a party to the proceeding, and any person who is an indispensable party to a complete determination or settlement of the question involved in the proceeding shall be joined. Any person who has or claims an interest in the subject of the hearing and in obtaining or presenting relief against the acts or practices complained of, may be, in the discretion of the Hearing Officer, permitted to appear for the presentation of oral or written argument.

In any proceeding, the Hearing Officer shall not be bound by the rules of evidence prevailing in the courts of law or equity, but shall in ascertaining the practices followed by the Respondent, take into account all reliable, probative, and substantial evidence, statistical, or otherwise, produced at the hearing, which may tend to prove the existence of an unlawful discriminatory practice or a predetermined pattern of unlawful discriminatory practices under Section 525.19 of the City of Hilliard Codes provided that nothing contained in this Section shall be construed to authorize or require any person to observe the proportion which persons of any race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status or

military status bear to the total population or in accordance with any criterion other than the individual qualifications of the applicant.

The testimony taken at the hearing shall be under oath and before a court reporter hired by the City Manager. The transcript of the hearing shall be filed with the Clerk of Council.

The Hearing Officer is granted the authority to develop and implement rules and procedures to control the governance of the hearing. In conducting any hearing as provided herein, the Hearing Officer may upon request of any party subpoena as witnesses any person believed to have knowledge of the facts relevant to such hearing, compel the production of books, papers, records, or other evidence relative to such hearing by the person having custody or control thereof and may administer oaths, take testimony and issue such rules as shall be necessary to effectuate an investigatory hearing under this section.

The Hearing Officer shall issue a written decision concerning the charges in the complaint. The decision shall include findings of fact and conclusions of law. Any final decision by the Hearing Officer may be appealed to the Franklin County Court of Common Pleas to the extent authorized by applicable law.

- D. Notice of Violation and Order to Cease and Desist: If upon all the evidence presented, the Hearing Officer determines that the Respondent has engaged in, or is engaging in, any unlawful discriminatory practice under this Section, whether against the Complainant or others, the Hearing Officer shall issue a notice of violation, and shall issue an order to Respondent to cease and desist the unlawful discriminatory practice.

In addition to issuing a cease-and-desist order, the Hearing Officer shall have the authority to issue the following remedies:

1. If division (3)(D)(2) or (3) of this Section does not apply, a civil penalty in an amount not to exceed one thousand dollars (\$1,000);
2. If division (3)(D)(3) of this Section does not apply and if the Respondent has committed one violation of this Chapter during the five-year period immediately preceding the date on which a complaint was filed pursuant to division (2)(A) of this Section, a civil penalty in an amount not to exceed two thousand five hundred dollars (\$2,500).
3. If the respondent has committed two or more violations of this Section during the five-year period immediately preceding the date on which a complaint was filed pursuant to division (2)(A) of this section, a civil penalty in an amount not to exceed five thousand dollars (\$5,000).

The notice of violation, order to cease and desist, and any other penalty issued by the Hearing Officer shall be served on the Respondent and Complainant.

The Law Director is authorized to institute in the name of the City of Hilliard any appropriate civil enforcement proceedings.

**(f) FAILURE TO COMPLY WITH A HILLIARD SUBPOENA.**

No person shall fail to comply with a subpoena issued by the Hearing Officer. Whoever violates this section is guilty of failure to comply with a Hilliard subpoena, a minor misdemeanor.

**(g) FAILURE TO COMPLY WITH AN ORDER OF THE HEARING OFFICER.**

No person shall fail to comply with any portion of an order issued by the Hearing Officer within thirty days following service of the order or such period of time as the order provides, whichever is greater. Whoever violates this section is guilty of failure to comply with an order of the Hearing Officer, a minor misdemeanor.

**(h) FAILURE TO PAY FINANCIAL SANCTIONS IMPOSED BY THE HEARING OFFICER.**

If a civil penalty or costs or both are imposed by the Hearing Officer on the Respondent, and any portion thereof remains unpaid thirty days following service of the order or following the expiration of the time period designated by the Hearing Officer, the City may institute civil enforcement proceedings against the Respondent.

**(i) COMPLAINTS ALLEGING UNLAWFUL DISCRIMINATORY PRACTICES BY THE CITY**

(1) If a complaint is filed with the Clerk of Council alleging that the City, or one of its boards, commissions, departments, divisions, officials, or employees has engaged or is engaging in an unlawful discriminatory practice as defined in this Section, then the following additional procedures shall apply:

- A. Upon receipt of the complaint, the Clerk of Council shall immediately date stamp the complaint and forward a copy of the complaint to the City Manager.
- B. Upon receipt, the City Manager may either direct the Law Director to conduct a preliminary investigation or to appoint special counsel to conduct a preliminary investigation. If directed to appoint special counsel, the Law Director shall appoint such special counsel within 14 days.
  1. Upon conducting the preliminary investigation, the Law Director or special counsel shall make a recommendation to the City Manager within 30 days to either appoint a Hearing Officer to conduct an administrative hearing or to dismiss the complaint.
  2. The City Manager shall review the recommendation within 14 days of receipt. The recommendation made to the City Manager shall be a public record.
- C. Should the City Manager determine to appoint a Hearing Officer:
  1. The Hearing Officer shall be appointed by the Law Director within 14 days of determination.
  2. The Hearing Officer shall make a recommendation to the City Manager within 30 days of the appointment.
  3. The City Manager shall remedy the situation within 14 days of receiving the recommendation from the Hearing Officer and the recommendation shall be made public.
- D. If the complaint involves an employment action by the City, then the City Manager may refer the complaint to the Personnel Review Board for an appeal hearing concerning the alleged discriminatory practices and no further action shall be taken under this Section.
- E. If the complaint involves the City Manager directly, then City Council shall take the place of City Manager in this Section for the purposes of approving investigations and necessary appointments.
- F. No public servant, under color of their office, employment, or authority, shall knowingly deprive, or attempt to deprive any person of a constitutional or statutory right or any other

protections against discriminatory conduct created by an ordinance of the City of Hilliard.

**(j) ANNUAL REPORT AND APPOINTMENT OF DESIGNEE.**

The Law Director shall prepare an annual report to City Council summarizing the complaints, investigations, hearings, and enforcement proceedings involving unlawful discriminatory practices under this Section.

**(k) EXCLUSIONS.**

The application and enforcement of the protections created herein are limited solely to the terms of this Section and such terms shall not create nor enhance protected class status for any other purpose including public and private affirmative action program eligibility. The term "affirmative action program" shall include any program administered by any private or public entity for the purpose of providing preferential treatment for those in a protected class.

**(l) CONSTRUCTION AND SEVERABILITY.**

- (1) Section 525.19 of the Hilliard Codified Ordinances is not intended to and shall not be construed to prohibit or restrict speech or conduct protected under the First Amendment of the United States Constitution or any other provisions of the United States Constitution or Ohio Constitution.
- (2) Section 525.19, of the Hilliard Codified Ordinances, and each division of said section there under, are hereby declared to be independent divisions and sub-divisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said divisions and sub-divisions, or the application thereof to any person or circumstance is held to be invalid, the remaining divisions or sub-divisions and the application of such provision to any person or circumstances other than those to which it is held invalid shall not be affected thereby, and it is hereby declared that the remaining divisions and sub-divisions would have been passed independently of any provisions held to be invalid.